

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jaimie Vernon	Team: Squad #4	CCRB Case #: 201508477	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 09/22/2015 2:30 PM	Location of Incident: § 87(2)(b)	Precinct: 67	18 Mo. SOL 3/22/2017	EO SOL 3/22/2017	
Date/Time CV Reported Tue, 10/06/2015 1:27 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 10/06/2015 1:27 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM James Berk	02974	949358	067 PCT
2. Officers			067 PCT
3. POM Steven Acevedo	16469	949959	067 PCT
4. LT John Hopkins	00000	904167	067 PCT
5. SGT Vasily Ignatov	00917	930390	067 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Daniel Ohare	17735	950974	067 PCT
2. SGT Ryan Habermehl	01478	931713	067 PCT
3. CPT Anthony Longobardi	00000	923451	067 PCT
4. INS Joseph Gulotta	00000	900369	067 PCT

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Abuse: Officers entered and searched the first floor of § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.POM James Berk	Abuse: PO James Berk entered and searched the second and third floors of § 87(2)(b) in Brooklyn.	§ 87(2)(b)
C.POM Steven Acevedo	Abuse: PO Steven Acevedo entered and searched the second and third floors of § 87(2)(b) in Brooklyn.	§ 87(2)(b)
D.LT John Hopkins	Abuse: Lt. John Hopkins entered and searched the second and third floors of § 87(2)(b)	§ 87(2)(b)
E.POM James Berk	Discourtesy: PO James Berk spoke discourteously to § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
F.SGT Vasiliy Ignatov	Force: Sgt. Vasiliy Ignatov used pepper spray against § 87(2)(b) [REDACTED]	[REDACTED]

Case Summary

On October 6, 2015, the CCRB received the complaints of § 87(2)(b) made online. § 87(2)(b) submitted three complaints for herself and submitted one each on behalf of her children § 87(2)(b) and § 87(2)(b). On October 19, 2015, § 87(2)(b) provided an in-person statement (Board Review 01). Her statement is merged with the investigation's findings into the following narrative:

In the afternoon of September 22nd, 2015, § 87(2)(b) returned to her home at § 87(2)(b) in Brooklyn with her daughter, § 87(2)(b). § 87(2)(b) explained that the building was originally an abandoned storefront with residential quarters and was leased to § 87(2)(b) in November 2013 by § 87(2)(b). Shortly after § 87(2)(b) and her family, including her husband and seven children, began living at the house, § 87(2)(b) sold the building to § 87(2)(b) who, since that time, had been trying to evict § 87(2)(b) family, accusing them of being squatters.

The building is comprised of three floors and has three front doors. The door in the center and the door on the right lead to the commercial establishment on the first floor. The door on the left leads straight to the second floor. A staircase outside the door of the second floor residential quarters leads to the third floor. There is no internal connection between the first and second floors.

Around 2:30PM on September 22nd, 2015, the members of the Business Conditions team of the 67th Precinct, led by PO James Berk and including PO Steven Acevedo, Sgt. Vasily Ignatov, Lt. John Hopkins, and PO Daniel O'Hare, banged on § 87(2)(b) front door, which led to the storefront, demanding to be let in. When § 87(2)(b) did not answer, the officers forced the door open, finding § 87(2)(b) and her son, § 87(2)(b) on the first floor. The officers explained that there were guns and drugs in the building, and they were also looking for men suspected of criminal activity. § 87(2)(b) denied that any of those things were at her house, and that she lived there with her husband and children. Despite this, the officers went past her and entered the building, sweeping through the first floor (**Allegation A**).

When the officers found no one, they returned to § 87(2)(b) and accused her of trespassing. They displayed a lease that § 87(2)(b) had shown them, on which § 87(2)(b) forged § 87(2)(b) name. § 87(2)(b) told the officers that she will show them the actual lease she signed with § 87(2)(b) and went up to the second floor. The officers followed her, and searched each of the bedrooms, the kitchen, and the bathroom on the second floor. The officers then went up to the third floor and searched the three bedrooms there (**Allegations B, C, and D**).

§ 87(2)(b) and the members of her family found, including § 87(2)(b) and § 87(2)(b) and her children's friends § 87(2)(b) and § 87(2)(b) were quartered in the living room and handcuffed. The civilians were then escorted out of the house and taken to the 67th Precinct

stationhouse, where they were all arrested for § 87(2)(b)

The building was safeguarded by officers throughout the night and most of the next day.

At the 67th Precinct stationhouse, PO Berk allegedly apologized to § 87(2)(b) for arresting her and her family, saying, “I know I fucked up” (**Allegation E**). After § 87(2)(b) and her family had been arrested and removed from § 87(2)(b) § 87(2)(b) returned to her home after leaving the beauty salon. She was arrested for § 87(2)(b) § 87(2)(b). § 87(2)(b) alleged that § 87(2)(b) had been pepper-sprayed during her arrest, though she did not witness this, having been removed to the stationhouse earlier (**Allegation F**).

The next day, the 67th Precinct Business Conditions Team, returned to § 87(2)(b) accompanied by the Anti-Crime and Set teams, to execute three search warrants, one for each floor of the building (Board Review 04). Marijuana, a firearm, an imitation pistol, a gravity knife, and multiple credit cards were found in various places of the building. Since the date of the incident, neither § 87(2)(b) nor her family has been allowed to return to the building.

This case was submitted one month beyond the 90-day benchmark because it was established that two additional officer testimonies were required when the case was initially submitted for review. APU Prosecutor Jonathan Fogel was consulted in this case.

Video Footage

The investigation has not been able to find any video footage of this incident. § 87(2)(b) lies in a residential neighborhood whose buildings had no visible cameras. The 67th Precinct is not part of the Body Camera Pilot Program, and so no body camera footage could be obtained for this incident.

Mediation, Civil and Criminal Histories

§ 87(2)(b) rejected mediation. § 87(2)(b)

Civilian and Officer CCRB Histories

- § 87(2)(b) has filed two previous CCRB complaints. § 87(2)(b)

- PO Berk has been a member of the service for five years, and this is his second CCRB complaint. He has no substantiated allegations, § 87(2)(g)
- PO Acevedo has been a member of the service for four years. In case 201510080, a Refusal to Provide Name and Shield Allegation was substantiated. The Board recommended Instructions, which the NYPD upheld. He has no other substantiated allegations, § 87(2)(g)
- Lt. Hopkins has been a member of the service for twenty-two years. In cases 200513232, 200711193, 200809250, 200816585, 200902392, and 201006723, the entry and search allegations against him were exonerated. In 200602253, an additional entry allegation was unsubstantiated. In case 200700412, a stop allegation was substantiated, with the Board recommending charges. However, the NYPD gave him no disciplinary action. He has no other substantiated allegations.
- Sgt. Ignatov has been a member of the service for thirteen years, and there are no substantiated allegations against him. In case 200307575, a pepper spray allegation was closed as Complainant Uncooperative. In case 200907104, another pepper spray allegation was exonerated. In case 201104536, a pepper spray allegation was unsubstantiated. In case 201102400, an entry and search allegation was exonerated.

Potential Issues

Despite multiple attempts by phone and mail, the investigation has been unable to reach § 87(2)(b) § 87(2)(b) was uncooperative with helping the CCRB reach § 87(2)(b) so that she could provide the investigation with a statement directly (See Investigative Actions). The other members of § 87(2)(b) family did not cooperate in the investigation.

Findings and Recommendations

Allegation A – Abuse of Authority: Officers entered and searched § 87(2)(b) first floor, in Brooklyn.

It is undisputed that officers of the 67th Precinct, including PO Berk and PO Steven Acevedo, entered and searched § 87(2)(b) on both September 22nd, 2015 and on September 23rd, 2015. § 87(2)(b) her husband, four of her children, and two friends of the family, were arrested and removed from the location on September 22nd, 2015. On September 23rd, 2015, officers returned to the location with a search warrant and removed most of the family's belongings. During the search, a firearm, an imitation pistol, a gravity knife, marijuana, and multiple credit cards were found in the building. § 87(2)(b) and § 87(2)(b) were all charged with the possession of these items (Board Review 02 and Board Review 03).

§ 87(2)(b) stated that officers broke down the center door leading to the storefront and entered without her permission. They proceeded to search all of the rooms of the storefront (Board Review 01).

PO Berk, PO Acevedo, and Sgt. Ignatov all claimed that § 87(2)(b) who owns the building, gave the officers permission to enter the building. The officers, including Lt. Hopkins, all explained that earlier on September 22, 2015, § 87(2)(b) had come to the 67th Precinct stationhouse to complain about squatters trespassing on her property at § 87(2)(b) which, she asserted, should be completely empty (Board Review 06, Board Review 07, Board Review 08, and Board Review 09). She presented PO Berk with a lease that she alleged had been forged by § 87(2)(b) purportedly giving § 87(2)(b) the right to live in the property. § 87(2)(b) added that some members of § 87(2)(b) family were dealing drugs at the building. She also accused the family of possessing guns.

After speaking with § 87(2)(b) PO Berk and PO Acevedo went to § 87(2)(b) and observed the location in an unmarked car across the street. They observed four young black males inside the building rolling and smoking marijuana. PO Berk later identified these males as § 87(2)(b) and § 87(2)(b). Suspecting these males both of marijuana possession and of trespassing, PO Berk and PO Acevedo resolved to apprehend the males.

Both officers decided to go back to the 67th Precinct stationhouse to retrieve the rest of the Business Conditions team. They informed their supervisor, Lt. Hopkins, of what they observed, and Lt. Hopkins accompanied them back to the location in their vehicle. Sgt. Ignatov and his operator, PO O'Hare, drove § 87(2)(b) over to the location to identify the suspects. She identified them as some of the squatters in the building, and gave the officers permission to enter the building if necessary.

PO Berk and PO Acevedo proceeded to approach the four young men, at least one of whom was standing outside the building. When that young man saw the officers, he ran back inside the building, with the other three males running as well. The officers pursued the males on the first floor and, having seen them enter the second floor through an open window, went back to the front of the building in an attempt to enter the residence on the second floor.

Lt. Hopkins corroborated PO Berk's and PO Acevedo's account of the seeing the males inside the storefront and then giving chase inside the building when one of the men attempted to flee. He also stated that he strongly suspected males of smoking marijuana, describing the powerful smell that hit him as PO Berk opened the door of their unmarked car. However, Lt. Hopkins did not see any of the young men with cigarettes in their hands and made no observations of drug paraphernalia within the storefront. Lt. Hopkins also did not believe that any of the officers sought to get permission from § 87(2)(b) prior to entering, assuming that § 87(2)(b) would have been pleased with the officers arresting the squatters (Board Review 08).

§ 87(2)(b) confirmed that she had gone to the 67th Precinct stationhouse earlier that day to make a complaint about § 87(2)(b) and her family. She provided the officers with documents from housing court allegedly showing that an eviction was ordered. She also confirmed that she was driven to the location by Sgt. Ignatov and that she gave the officers permission to enter the building when they arrived at the location (Board Review 10). She added that she saw § 87(2)(b) standing in front of the building on the date of the incident, selling drugs. When the officers approached § 87(2)(b) he ran inside the building, prompting the officers to run in after him. This however, was not corroborated by any of the officers.

§ 87(2)(g)

Allegation B – Abuse of Authority: PO James Berk entered and searched § 87(2)(b) second and third floors, in Brooklyn.

Allegation C – Abuse of Authority: PO Steven Acevedo entered and searched § 87(2)(b) second and third floors, in Brooklyn.

Allegation D – Abuse of Authority: Lt. John Hopkins entered and searched § 87(2)(b) second floor, in Brooklyn.

§ 87(2)(b) alleged that after the officers entered and searched the first floor of the building, they accused her and her family of trespassing. To prove them wrong, she asked to go to her apartment on the second floor to retrieve the lease given to her by § 87(2)(b). While the officers allowed her to go upstairs, they followed behind her. When she asked them why they were following her, they explained that they were looking for suspects. § 87(2)(b) told the officers that only she, her husband, and children were in the building, but the officers did not believe her (Board Review 01).

On the second floor, § 87(2)(b) saw the officers enter each of the four bedrooms, as well as the bathroom. She observed officers looking under beds and behind the shower curtain. She did not see officers open any closed compartments, and said that the officers were in each room for less than a minute. When they finished searching, the officers rounded up § 87(2)(b) her husband, her children who were inside the building at the time, and two of her children's friends and arrested them. The officers entered and searched the third floor as well, but found no one.

PO Berk and PO Acevedo stated that after they discovered that the four young males they were chasing had re-entered the building through the second floor window, they came back to the front of the building to enter through the door that leads straight to the second floor (Board Review 06 and Board Review 07). They opened that door and went upstairs, knocking on the door to § 87(2)(b) apartment. They stated that § 87(2)(b) explicitly gave them

permission to enter and search the second floor of § 87(2)(b) when they explained that they were looking for people they saw smoking marijuana. Sgt. Ignatov and Lt. Hopkins, while not present when PO Berk and PO Acevedo first spoke to § 87(2)(b) corroborated this.

PO Berk and PO Acevedo entered the third floor first, looking through each of the three rooms for the males. As they searched, they found a firearm lying on the bed in one of the rooms. They left the firearm there with the understanding that they would seek a warrant to remove all of the contraband they found in the building. PO Berk and PO Acevedo then went back down to the second floor, where they searched each of the four bedrooms. They found the four males in the front bedroom and arrested them. They arrested § 87(2)(b) and § 87(2)(b) shortly after. After sufficient backup officers arrived to secure the location, the officers removed the defendants to the stationhouse, later visiting the Brooklyn District Attorney's office to request the search warrant.

Lt. Hopkins § 87(2)(g) explained that after PO Berk and PO Acevedo informed him of what they found at the back of the building immediately after the chase, he walked through the storefront and went to the back of the building to see for himself. He observed that the windows of the buildings on either side of § 87(2)(b) were all closed, and immediately agreed that the only place the young men could have gone was the open window of the second floor of § 87(2)(b). He ordered that Sgt. Ignatov call for backup and establish a perimeter around the location. He also called his commanding officer, Capt. Anthony Longobardi, to the location (Board Review 08).

Capt. Longobardi arrived with the then Deputy Inspector of the 67th Precinct, Joseph Gulotta. Lt. Hopkins explained the situation to Capt. Longobardi, who transmitted the information to Dept. Insp. Gulotta. Capt. Longobardi and Dept. Insp. Gulotta entered the second floor of the building with other officers to conduct a protective sweep for both the males seen in the storefront and for any other individuals found, as per § 87(2)(b)'s instructions that no one should be in the building. Around this time, Sgt. Ignatov and Sgt. Ryan Habermehl entered the residential area to supervise the sweep of the second and third floors. Lt. Hopkins did not know if PO Berk or PO Acevedo also entered the second and third floors at this time. § 87(2)(b) and the four males in the storefront were all arrested and removed from the location. Lt. Hopkins later ordered PO Berk and PO Acevedo to request a search warrant, which was executed the next day.

PO Berk, PO Acevedo, nor Sgt. Ignatov mentioned any involvement Capt. Longobardi or Dept. Insp. Gulotta had in this incident.

§ 87(2)(b) stated that, while she was present at the location on the date of the incident, having been driven there by Sgt. Ignatov and his operator, PO O'Hare, she was adamant that the officers did not search the second or third floors of the building (Board Review 10).

The investigation has found that § 87(2)(b) has filed many claims against § 87(2)(b) in housing court over § 87(2)(b) occupancy of § 87(2)(b) since 2013. However, the majority of the claims were dismissed in court, with it being ordered that § 87(2)(b) and her

family have possession rights over their area of the property, covering the second and third floors. In July of 2015, the housing court ordered that the City Marshall evict § 87(2)(b) and her family from the residence, but reversed itself on § 87(2)(b), six days after the incident, restoring the residence to the possession of § 87(2)(b). There was never any formal notice of eviction served to § 87(2)(b) beyond a non-court issued request by § 87(2)(b) that § 87(2)(b) leave the property (Board Review 11 and Board Review 12).

Officers may enter a residence without a warrant only under a few permissible circumstances: to effect an arrest for a felony offense that had begun when the suspect was in a public place, in the midst of certain exigent circumstances, or during an emergency in which a person is assumed to be in immediate danger (Board Review 13: *U.S. v. Santana*, 1976; Board Review 14: *People v. McBride*, 2010, 14 N.Y.3d 440; Board Review 15: *People v. Magnus Dallas*, 2007, 832 N.Y.S.2d 893).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

Allegation E – Discourtesy: PO James Berk spoke discourteously to § 87(2)(b)

§ 87(2)(b) alleged that during her detainment at the 67th Precinct stationhouse, her arresting officer, apologized for arresting her and her family. He told § 87(2)(b) “I know I fucked up...You’re not going be charged with anything” (Board Review 01).

PO Berk denied making that remark or using any profanity toward § 87(2)(b) at any point (Board Review 06). PO Acevedo, Sgt. Ignatov, and Lt. Hopkins all denied that PO Berk made that remark or that he used any other profanity toward any of the civilians (Board Review 07, Board Review 08, and Board Review 09).

§ 87(2)(g)

Allegation F – Force: Sgt. Vasily Ignatov used pepper-spray against § 87(2)(b)

§ 87(2)(b) alleged that § 87(2)(b) when she returned to § 87(2)(b) from the beauty salon, was arrested and pepper-sprayed at the location by one of the officers who remained at the scene (Board Review 01). As § 87(2)(b) had already been arrested and removed from the location, she did not witness this, and only heard about from § 87(2)(b) after she was released.

As explained above, the investigation has been unable to reach § 87(2)(b). § 87(2)(b) said that § 87(2)(b) did not have her own phone number and could only be reached through her. However, despite multiple calls, § 87(2)(b) either stated that § 87(2)(b) was not present at the time of the call or refused to allow the CCRB to get in contact with § 87(2)(b). § 87(2)(b) § 87(2)(b) had also provided an address at which she said that § 87(2)(b) lived. Three letters were sent to that address, and all three were returned by the United States Postal Service. Three letters were also sent to the address listed on § 87(2)(b)'s arrest report, and one was returned.

A LexisNexis search was conducted to find additional contact information for § 87(2)(b). An address was yielded, and three letters were sent to that address. Two of those letters have been returned to the CCRB. To date, neither § 87(2)(b) nor § 87(2)(b) has reached the CCRB. Department of Corrections searches show that § 87(2)(b) is not currently incarcerated in NYC or elsewhere in the state. § 87(2)(g)

Squad: _____

Investigator: _____
Signature Print Date

Pod Leader: _____
Title/Signature Print Date

Attorney: _____
Title/Signature Print Date